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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,239	02/13/2001	Keishi Sugimoto	56937-024	8013

7590 02/23/2007  
McDERMOTT, WILL & EMERY  
600 13th Street, N.W.  
Washington, DC 20005-3096

EXAMINER
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BLOUNT, STEVEN

ART UNIT	PAPER NUMBER
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2616

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/23/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/781,239	SUGIMOTO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Steven Blount	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2, 6 - 7, 9, 13 - 15, 17, 20 - 21 is/are pending in the application.
- 4a) Of the above claim(s) 1, 3, 8, 10 - 12, 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2, 6 - 7, 9, 13 - 15, 17, 20 - 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 21 is rejected under 35 U.S.C. 101 as being directed to an invention which comprises non-statutory subject matter.

Claim 21 as written merely comprises a computer readable medium with computer instructions written onto it. It is not stated that the medium is to be used in combination with a computer to effectuate the desired result of overwriting necessary packet data onto non-necessary packet data areas.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2, 4, 5 - 6, 15 are rejected under 35 USC 112 second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter the applicant regards as their invention.

In claim 2, lines 2 – 3, “to necessary packet identifiers (PIDs) in a second transport stream (TS) is performed to unnecessary-packet areas” is indefinite; words to the effect of “wherein said overwriting” should be inserted before the word “is” in line 3. In line 1 of claim 5, “configured such that” is indefinite in the usage of this claim (this language is not per-se indefinite, but it is as applicant has applied it here).

In claim 15, line 2, the "configured such that" language is indefinite for the same reason as above. See also line 2 of claims 4 – 5 and the above.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 4 - 5, 7, 9, 13, 16, 19 – 21 are rejected under 35 U.S.C. 103(a) as being obvious over U.S. patent 5,835,493 to Magee et al.

With regard to claim 2, Magee et al teaches in the last 6 sentences of the abstract, col 6 lines 60+, col 7 lines 8+, col 7 lines 49+, col 8 line 8 (note "replacing"), col 11 lines 27+, col 17 lines 43+ and col 19 lines 40+ a receiver for receiving broadcast information (see col 1 lines 25+) wherein PID's are used to delineate necessary packets which are to be written onto unnecessary packets in a second transport stream. Although it is stated that "unwanted" packet areas are dropped and replaced (ie, their areas are overwritten), instead of "unnecessary" packet areas, one of ordinary skill in the art at the time of the invention would have realized that the difference between "unwanted" (see col 7 line 10) and "unnecessary" is an obvious one which would have been well within the ordinary skill in the art at the time of the invention.

With regard to claim 4, the packets are rewritten as discussed above.

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With regard to claim 5, PIDs of both streams are used as discussed in the above cited portions.

With regard to claim 7, see the rejection of claim 2 and note again use of PIDs for both streams.

With regard to claim 9, the use of PIDs in both streams would render determining if identical PIDs exist in order to avoid duplication and excess usage of bandwidth.

With regard to claim 13, since the device is a broadcast receiver, the PIDs would be opened by the user.

With regard to claim 16, note use of video.

With regard to claim 19, see the above cited portions and note that video is received.

With regard to claim 20, see the above and note the distinction between necessary and unwanted.

With regard to claim 21, see the rejections above and note it would be obvious to implement the invention in software in order to insure its repeatability.

7. Claim 17 rejected under 35 U.S.C. 103(a) as being obvious over U.S. patent 5,835,493 to Magee et al as applied above and further in view of U.S. patent 6,968,494 to Zhang.

Magee et al teaches the invention as described above, but does not teach a plurality of demodulators in the receiver. This is taught in Zhang in fig 2, member 204.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided Magee et al with a plurality of demodulators in light of the

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teachings of Zhang in order to allow a number of MPEG data streams to be processed simultaneously.

8. Claims 6 is rejected under 35 U.S.C. 103(a) as being obvious over U.S. patent 5,835,493 to Magee et al as applied above and further in view of U.S. patent 6,944,186 to Zaun et al.

Magee et al teaches the invention as described above, but does not teach the use of Null packets. These are taught in Zhaun in detailed description par 64, Zaun being directed to a similar system as Magee et al.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have used Null packets in the receiver of Magee et al in light of the teachings of Zaun in order to further delineate where the data should be written to.

9. Claim 14 is objected to as being dependent upon a claim that is rejected on art, but would be allowed if rewritten to include the limitations of claim 7. Claim 15 would be allowed if rewritten to include the limitations of claim 7 and to overcome the 112 rejection.

10. Applicants remarks have been considered but are moot in view of the new grounds of rejection above.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Blount whose telephone number is 571-272-3071. The examiner can normally be reached on M-F 9:00 - 5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Doris To, can be reached on 571-272-7269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DORIS H. TO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

SB  
  
2/19/07